

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

HARVEY P. SHORT,

Plaintiff,

v.

Civil Action No. 2:07-00277

JENNIFER BAILEY-WALKER, Judge,
Circuit Court of Kanawha County,

Defendant.

MEMORANDUM OPINION AND ORDER

This action was previously referred to Mary E. Stanley, United States Magistrate Judge, who has submitted her Proposed Findings and Recommendation pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B).

The court has reviewed the Proposed Findings and Recommendation entered by the magistrate judge on November 28, 2007. The magistrate judge recommends dismissal of plaintiff's complaint for failure to state a claim upon which relief can be granted pursuant to 28 U.S.C. § 1915A. The magistrate judge further recommends that the court deny as moot plaintiff's Application to Proceed Without Prepayment of Fees. The plaintiff

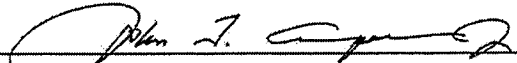
has not objected to the Proposed Findings and Recommendation.¹
The court concludes the recommended disposition is correct.

Accordingly, it is ORDERED that:

1. The Proposed Findings and Recommendation be, and it hereby is, adopted by the court;
2. Plaintiff's Application to Proceed Without Prepayment of Fees be, and it hereby is, denied as moot; and
3. This action be, and it hereby is, dismissed without prejudice.

The Clerk is directed to forward copies of this written opinion and order to the pro se plaintiff, all counsel of record, and the United States Magistrate Judge.

DATED: March 10, 2008


John T. Copenhaver, Jr.
United States District Judge

¹On November 28, 2007, the clerk transmitted to plaintiff a copy of the Proposed Findings and Recommendation. The mailing was sent to the South Central Regional Jail. On December 3, 2007, the mailing was returned. On December 5 and 10, 2007, respectively, the clerk re-transmitted the Proposed Findings and Recommendation to plaintiff at the Southern Regional Jail and the Southwestern Regional Jail. The docket does not reflect that either of the re-transmitted copies have been returned to the clerk. The online database maintained by the West Virginia Regional Jail Authority reflects that as of this date plaintiff is incarcerated at the Southwestern Regional Jail.